

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:
DUKE HEATING OIL, INC.

: CASE NO. 1-06-02931
:
:
Debtor : CHAPTER 11
:
: Judge Mary D. France

FILED
HARRISBURG, PA.
2010 MAY 20 AM 7:44
CLERK U.S. BANKRUPTCY COURT

**CREDITOR LEIGHOW OIL CO., INC.'S MOTION TO ENFORCE PLAN OF
REORGANIZATION**

LEIGHOW OIL CO. INC., a creditor of the Debtor in this case, by and through its attorneys, Apfelbaum, Apfelbaum & Apfelbaum, sets forth the following in support of its Motion to Enforce Plan of Reorganization:

1. On June 15, 2007, the Debtor Duke Heating Oil, Inc. submitted its Plan of Reorganization.
2. An Order Confirming Plan of Reorganization and Approving Disclosure Statement was entered by this Honorable Court on August 9, 2007.
3. Pursuant to the Plan of Reorganization, Article X, Retention of Jurisdiction, 10.1(g), this Court has jurisdiction "[t]o determine all controversies, suits and disputes that may arise in connection with the interpretation, enforcement or consummation of the Plan".
4. The Debtor Duke Heating Oil, Inc. has only made one payment pursuant to the Plan, check number 1073, in the amount of \$1,636.01, with the memo "1st payment of plan", a true and correct copy of which is attached as Exhibit "A".
5. The Debtor Duke Heating Oil, Inc. has failed to make any further payments to Leighow Oil Co., Inc. as provided for by the plan under Article III, Paragraph 3.5.
6. As of the date of this filing, Duke Heating Oil, Inc. owes Leighow Oil Co., Inc. the amount of \$40,098.75 for seventeen (17) months of missed payments under the Plan.

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7. An inquiry made of Debtor's counsel as to the reason for Duke Heating Oil, Inc.'s failure to make payments was not responded to.

8. Instead of making payments under the Plan to Leighow Oil Co., Inc., Debtor Duke Heating Oil, Inc. used its funds to acquire Deibler Fuels and purchase advertising stating that "We recently expanded and acquired Deibler Fuels", see a true and correct copy of which is attached as Exhibit "B".

9. A proposed Order is attached as Exhibit "C".

WHEREFORE, Leighow Oil Co., Inc. respectfully requests that this Honorable Court compel Duke Heating Oil, Inc. to comply with the Plan of Reorganization, make payment of \$40,098.75 and additional monthly payments under the Plan, and other such relief as is just and reasonable.

Respectfully Submitted,

APFELBAUM, APFELBAUM & APFELBAUM

BY:



Michael M. Appelbaum, Esq.

PA ID# 44707

43 South Fifth St.

Sunbury, PA 17801

570.286.9421

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF NORTHUMBERLAND :
SS.

Personally appeared before me, a Notary Public, in and for said county and state,
GLEN LEIGHOW, as President for Leighow Oil Co., Inc. is a Creditor in the foregoing action,
and being authorized so to do, state that the facts as set forth in the foregoing Motion are true and
correct to the best of his knowledge, information and belief.


Glen Leighow, President

Sworn to and subscribed

Before me this 19th day

of May,

2010.


NOTARY PUBLIC

My Commission Expires: 5-20-2012

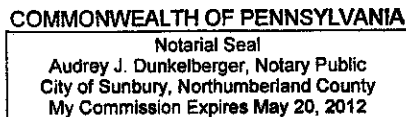


Exhibit “A”

Leighow \$130620.00

1 11/01/08 \$1636.01 - check 1073 #
 2 12/01/09 \$2358.75 -
 3 01/01/09
 4 02/01/09
 5 03/01/09
 6 04/01/09
 7 05/01/09
 8 06/01/09
 9 07/01/09
 10 08/01/09
 11 09/01/09
 12 10/01/09
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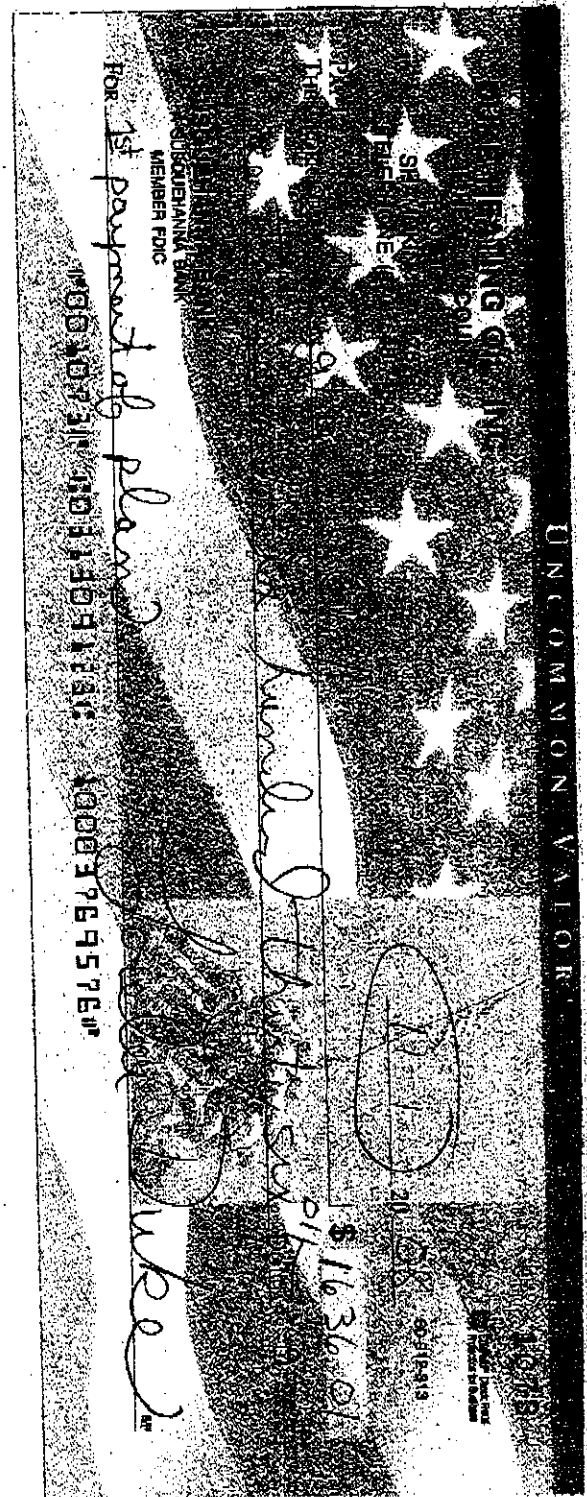


Exhibit “B”

**mer is...
a friend...
d to win a prize!**

White Turkey Breast
\$3.99 lb.

Exhibit “C”

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DUKE HEATING OIL, INC.	:	
	:	
Debtor	:	CHAPTER 11
	:	
	:	Judge Mary D. France

PROPOSED ORDER

AND NOW, this ____ day of _____, 2010, upon Consideration of Leighow Oil Co., Inc.'s Motion to Enforce Plan of Reorganization, the Motion is GRANTED and IT IS HEREBY ORDERED:

1. Duke Heating Oil, Inc. shall pay the sum of \$40,098.75 to Leighow Oil Co., Inc. for back payments owed under the Plan;
2. Duke Heating Oil, Inc. shall pay the sum of \$2,358.75 to Leighow Oil Co., Inc. by the first of each month until the sum of \$130,620.00 has been paid pursuant to the Plan.

BY THE COURT:

Bankruptcy Judge